

JOURNAL OF THE HOUSE.

Wednesday, June 4, 2008.

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

Gracious God, we believe that You, Your ways and traditional values offer purpose and meaning to our busy daily lives. Your help enables us to organize our crowded daily schedule and to set our own personal priorities and responsibilities in an optimistic manner. As elected leaders, inspire us to explain clearly to constituents the many current, complex and emotional legislative proposals and issues which we face. Teach us to motivate and assist our young people (both students and workers) to use their talents and intellectual gifts in addressing the complex challenges of our competitive and changing world. Guide our efforts and energies in promoting safer, peaceful, ethical and stable communities and neighborhoods which can strengthen our diverse society.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of
allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Statement Concerning Representative DeLeo of Winthrop.

A statement of Mr. Rushing of Boston concerning Mr. DeLeo of Winthrop was spread upon the records of the House, as follows:

Statement
concerning
Representative
DeLeo of
Winthrop.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative DeLeo of Winthrop, will not be present in the House Chamber for today's sitting due to illness. Any roll calls that he may miss today is due entirely to the reason stated.

Statement Concerning Representative Hall of Westford.

A statement of Mr. Rushing of Boston concerning Mr. Hall of Westford was spread upon the records of the House, as follows:

Statement
concerning
Representative
Hall of
Westford.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Hall of Westford, will not be present in the House Chamber for today's sitting due to a medical emergency. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement Concerning Representative Naughton of Clinton.

A statement of Mr. Rushing of Boston concerning Mr. Naughton of Clinton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Naughton of Clinton will not be present in the House Chamber for today's sitting due to being on active duty in the military. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement
concerning
Representative
Naughton of
Clinton.

Statement of Representative O'Day of West Boylston.

A statement of Mr. O'Day of West Boylston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I will not be present in the House Chamber for the remainder of today's sitting due to a long-standing obligation to be the keynote speaker at a graduation ceremony in my district for a class of young adults with special needs. Any roll calls that I may miss will be due entirely to the reason stated.

Statement of
Representative
O Day of
West Boylston.

Guests of the House.

During the session, Mr. Costello of Newburyport took the Chair, declared a brief recess and introduced Derek Raschke, 18, of Newburyport, who is credited with using CPR to save the life of Bert Carey. Derek was accompanied by his parents, Manfred and Cynthia. Also present was Mr. Carey, who was accompanied by his wife, Brenda, and sons Jonathan and Matthew. They were the guests of Representative Costello.

Derek
Raschke.

During the session, Mr. Rushing of Boston took the Chair, declared a brief recess and introduced a delegation from the Republic of Liberia, who were visiting Massachusetts to study workforce development. Included in the delegation were Ms. Vida H. Bracewell, Comptroller, YMCA of Liberia; Ms. Tomaa KuKu Davis, Special Assistant to the Minister of Youth and Sports; Mr. Mulbah S. Kackollie, Principal of the Booker T. Washington Institute; Ms. Charlotte Evangelynn Kaicora, Pastor of the Providence Baptist Church; Ms. Musu Sharon Kardamie, Chair of the Concerned Women of Liberia Association; and Mr. Francis H. Maweah, Chaiman of the Department of Rural Development at Cuttington University. They were the guests of Representatives Rushing and Bosley of North Adams.

Liberian
workforce
delegation.

During the session, Mrs. Harkins of Needham took the Chair, declared a brief recess and introduced Monique Roth, Paul DellaRipa and Benjamin DellaRipa of Needham. They were the guests of Representative Harkins.

Monique
Roth, Paul and
Benjamin
DellaRipa.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mrs. Canavan of Brockton) congratulating Brian Arthur Kennedy on receiving the Eagle Award of the Boy Scouts of America;

Brian
Arthur
Kennedy.

Resolutions (filed by Mr. Linsky of Natick) congratulating Gregory Michael MacDonough on receiving the Eagle Award of the Boy Scouts of America; and

Gregory
Michael
MacDonough.

Edna
Coburn
Sullivan.

Resolutions (filed by Mr. Turner of Dennis) congratulating Edna Coburn Sullivan on the occasion of her one hundredth birthday;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Spellane of Worcester, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

General
Appropriation
Bill.

The House Bill making appropriations for the fiscal year 2009 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4701) came from the Senate with the endorsement that said branch had insisted on its amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2714 (in which the House had non-concurred).

Committee of
conference.

The bill bore the further endorsement that the Senate had concurred with the House in the appointment of a committee of conference on the disagreeing votes of the two branches; and that Senators Panagiotakos, Brewer and Knapik had been joined as the committee on the part of the Senate.

West
Springfield,
special
police.

The House Bill relative to the special police officers in the city known as the town of West Springfield (House, No. 4080) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 4, striking out the words "shall have the right to an appointment" and inserting in place thereof the words: "may be appointed".

Under suspension of Rule 35, on motion of Mr. Welch of West Springfield, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Reports of Committees.

Charlestown,
port area.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Eugene L. O'Flaherty relative to the designated port areas of certain parcels of land located in the Charlestown district of the city of Boston. Under suspension of the rules, on motion of Mr. O'Day of West Boylston, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Environment, Natural Resources and Agriculture. Sent to the Senate for concurrence.

Engrossed Bill.

Bill
enacted.

The engrossed Bill authorizing the town of Topsfield to issue a license for the sale of wine and malt beverages not to be drunk on

the premises (see House, No. 4428) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Senate bills

Permitting the reinstatement of Roger B. Cataldo to the police department of the town of Southwick (Senate, No. 1529, amended); and

Third
reading
bills.

Authorizing the city of Northampton to convert 5 seasonal licenses for the sale of all alcoholic beverages to be drunk on the premises to annual (Senate, No. 2594);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

House bills

Relative to vacancies in the Beacon Hill Architectural Commission (House, No. 3269) (its title having been changed by the committee on Bills in the Third Reading);

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Designating a certain bridge in the Hyde Park section of the city of Boston as the Joseph M. Kearney Bridge (House, No. 3627, changed) (its title having been changed by the committee on Bills in the Third Reading);

Designating a certain bridge in the Hyde Park section of the city of Boston as the Thomas J. Geraghty Bridge (House, No. 3628, changed) (its title having been changed by the committee on Bills in the Third Reading);

Designating a certain traffic rotary in the town of Everett as the Edward G. Connolly memorial rotary (House, No. 3634);

Exempting certain positions in the town of Hull from the civil service law (House, No. 4219);

Relative to the leasing of certain property in the city of Waltham (House, No. 4636) (its title having been changed by the committee on Bills in the Third Reading);

Designating a certain bridge in the town of Sheffield as the Sheffield Veterans Memorial Bridge (House, No. 4703) (its title having been changed by the committee on Bills in the Third Reading); and

Establishing a sick leave bank for Judith Sargent, an employee of the Department of Public Health (House, No. 4742) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

The House Bill establishing the nursing and allied health trust fund (House, No. 4575) was read a third time.

Nursing
trust
fund.

The committee on Bills in the Third Reading reported recommending that the bill be consolidated with the Senate Bill establishing the nursing and allied health trust fund (Senate, No. 674),

likewise referred to said committee and that when so consolidated will be correctly drawn; and the report was accepted.

The consolidated bill (House, No. 4575) then was passed to be engrossed. Sent to the Senate for concurrence.

Senate bills

Providing for the establishment and administration of rent regulations and the control of evictions in mobile home parks in the town of Norwell (Senate, No. 2320); and

Authorizing the city of Melrose to issue pension funding bonds or notes (Senate, No. 2602); and

House bills

Relative to the uniform probate code (House, No. 1633);

Relative to issuing a license to carry firearms to law enforcement officers (House, No. 2285);

Further prohibiting discrimination in sober housing (House, No. 2297);

To designate Mitochondrial Disease Awareness Week (House, No. 3246);

Relative to the physician credentialing process (House, No. 4145);

Relative to disability placards (House, No. 4220);

Exempting the school custodians in the town of Hadley from the civil service law (House, No. 4419);

Relative to the granting of an easement by the town of Sharon (printed in House, No. 4738); and

Establishing a sick leave bank for Gary Tuck, an employee of the Department of Revenue (House, No. 4754);

Severally were read a second time; and they were ordered to a third reading.

The House Bill requiring safety belts for passengers on public school buses (House, No. 2300) was read a second time.

Pending the question on ordering the bill to a third reading, it was referred to the committee on Transportation, on motion of Mr. Wagner of Chicopee. Sent to the Senate for concurrence.

Recesses.

At twenty-seven minutes after eleven o'clock A.M., on motion of Mr. Straus of Mattapoisett (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at ten minutes after one o'clock the House was called to order with Mr. Mariano of Quincy in the Chair.

The House thereupon took a further recess, on motion of Mr. Hill of Ipswich, until half past one o'clock; and at seventeen minutes before two o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Engrossed Bill — Land Taking.

The engrossed Bill relative to the conveyance of property by the county of Nantucket (see Senate, No. 2224) (which originated in

the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 376 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The House Bill protecting the public health (House, No. 4346) was read a second time.

After debate on the question on ordering the bill to a third reading, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 146 members were recorded as being in attendance.

[See Yea and Nay No. 377 in Supplement.]

Therefore a quorum was present.

Subsequently a statement of Mr. Falzone of Saugus was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not recorded on the previous roll call due to attending a hearing before the committee on Bonding, Capital Expenditures and State Assets at which one of my constituents was testifying.

After remarks on the question on ordering the bill to a third reading, Mr. Jones of North Reading and other members of the House moved to amend it by striking out all after the enacting clause and inserting in place thereof the text contained in House bill numbered 2044.

Mr. Koutoujian thereupon raised a point of order that the amendment went beyond the scope of the pending bill.

The Chair (Mr. Petrolati of Ludlow) stated that the point of order was well taken; and the amendment was laid aside accordingly.

Ms. Rogeness of Longmeadow thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Jones of North Reading.

The question was then put: "Shall the decision of the Chair stand as the judgment of the House?"; and after debate the decision of the Chair was sustained.

Mr. Koutoujian of Waltham then moved to amend the bill by striking out paragraph (d) and inserting in place thereof the following paragraph:

"(d) The department of public health in consultation with the representatives of the restaurant, food supplier, and food producer

conveyance.

Bill enacted [land taking], yea and nay No. 376.

Trans fats, prohibit.

Quorum.

Quorum, yea and nay No. 377.

Statement of Representative Falzone of Saugus.

Point of order.

Appeal from decision of Chair.

Second reading bills.

School buses, safety belts.

Recesses.

Nantucket, land

Appeal from
decision of Chair.

industries shall, subject to appropriation, implement a comprehensive education and outreach program designed to ensure compliance with this act. The department shall include in the outreach and education program materials to provide assistance to common victualler, as licensed in section 6 of chapter 140, on appropriate methods to ensure compliance with this act; information for consumers and businesses on the health risks associated with the ingestion of trans fat; guidance on the incorporation of healthy alternatives to trans fats in food preparation for consumers and businesses; and any other information the department deems necessary to promote awareness of this section.”.

After remarks the amendment was adopted.

Messrs. Koutoujian and Torrisi of North Andover then moved to amend the bill by adding the following section:

“SECTION 2. Section 1 of this act shall take effect on August 1, 2009 with respect to oils, shortenings and margarines containing artificial trans fat that are used for frying or in spreads; except that the effective date of this section with regard to oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat, shall be February 1, 2010.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 378 in Supplement.]

Therefore the amendment was adopted.

After debate on the question on ordering the bill, as amended, to a third reading, the sense of the House was taken by yeas and nays, at the request of Mr. Koutoujian of Waltham; and on the roll call 116 members voted in the affirmative and 34 in the negative.

[See Ye and Nay No. 379 in Supplement.]

Therefore the bill, as amended, was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Koutoujian of Waltham, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, its title having been changed by said committee to read: “An Act relative to foods containing artificial trans fats.”. The bill (House, No. 4346, amended) then was sent to the Senate for concurrence.

Emergency Measure.

The engrossed Bill relative to the further economic development of the Commonwealth (see House, No. 4383, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 32 to 0. Sent to the Senate for concurrence.

Amendment
adopted,
yea and nay
No. 378.

Bill ordered
to a third
reading,
yea and nay
No. 379.

Economic
development.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the gift, loan or pledging of the credit of the Commonwealth as defined by Section 1 of Article LXII of the Amendments to the Constitution); and on the roll call 148 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 380 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The House Bill to further protect children (House, No. 4811) was read a second time.

After remarks on the question on ordering the bill to a third reading (Mr. Donato of Medford being in the Chair), Mr. Fagan of Taunton moved to amend it in section 1, in lines 44 to 55, inclusive, by striking out paragraph (c).

After debate the amendment was rejected.

The same member then moved to amend the bill in section 1 by striking out the paragraph contained in lines 63 to 82, inclusive; and in section 2 by striking out the paragraph contained in lines 65 to 84, inclusive. After remarks the amendments were rejected.

Mr. Fagan then moved to amend the bill in section 1 by striking out the paragraph contained in lines 17 to 20, inclusive; and in section 2 by striking out the paragraph contained in lines 15 to 18, inclusive. After remarks the amendments were adopted.

Mr. O’Flaherty of Chelsea thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 145 members were recorded as being in attendance.

[See Ye and Nay No. 381 in Supplement.]

Therefore a quorum was present.

Representatives Polito of Shrewsbury and Frost of Auburn then moved to amend the bill in section 2 by striking out the paragraph contained in lines 4 to 10, inclusive, and inserting in place thereof the following paragraph:

“SECTION 22A. Whoever has sexual intercourse or unnatural sexual intercourse with a child under 16, and compels said child to submit by force and against his will or compels said child to submit by threat of bodily injury, shall be punished in the state prison for life or for any term of years not less than ten years; provided, however, that a prosecution commenced under the provisions of this section shall not be placed on file or continued without finding. The

Bill enacted
[state credit],
yea and nay
No. 380.

Children,
protection.

Quorum.

Quorum,
yea and nay
No. 381.

Children,

protection.

sentence imposed on such person shall not be reduced to less than ten years, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served ten years of such sentence. The provisions of section 87 of chapter 276 relating to the power of the court to place certain offenders on probation shall not apply to any person charged with a violation of this section.”

Amendment
rejected,
yea and nay
No. 382.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Ms. Polito; and on the roll call 24 members voted in the affirmative and 124 in the negative.

[See Yea and Nay No. 382 in Supplement.]

Therefore the amendment was rejected.

Bill ordered
to a third
reading,
yea and nay
No. 383.

After remarks, the question on ordering the bill, as amended, to a third reading, was taken by yeas and nays, at the request of Mr. O’Flaherty of Chelsea; and on the roll call 145 members voted in the affirmative and 3 in the negative.

[See Yea and Nay No. 383 in Supplement.]

Therefore the bill, as amended, was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. O’Flaherty of Chelsea, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time, its title having been changed by said committee to read: “An Act further protecting children.”

Pending the question on passing the bill, as amended, to be engrossed, Ms. Polito of Shrewsbury moved to amend it by adding the following section:

“SECTION 5. Notwithstanding any general or special law to the contrary, the Chief Justice for Administration and Management of the Trial Court shall establish and implement an annual reporting system that shall provide information to the Joint Committee on the Judiciary on the prosecution and disposition of cases which involve offenses established under this Act. Said reporting system shall be established no later than December 31, 2008, and shall provide for a first annual report to be filed with the Clerk of the House and the Clerk of the Senate and the Joint Committee on the Judiciary no later than December 31, 2009.”

Amendment
adopted,
yea and nay
No. 384.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 144 members voted in the affirmative and 2 in the negative.

[See Yea and Nay No. 384 in Supplement.]

Therefore the amendment was adopted.

Bill passed
to be
engrossed,
yea and nay
No. 385.

After remarks on the question on passing the bill, as amended, to be engrossed (the Speaker being in the Chair), the sense of the House was taken by yeas and nays, at the request of Ms. Clark of Melrose; and on the roll call 143 members voted in the affirmative and 3 in the negative.

[See Yea and Nay No. 385 in Supplement.]

Therefore the bill (House, No. 4811, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o’clock A.M. Next sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at sixteen minutes after eight o’clock P.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at eleven o’clock A.M., in an Informal Session.